IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3384 of 1998

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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REKHABEN B VAUODEVE - Petitioner(s)

Versus

STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :

MR HARIN P RAVAL for Petitioner(s) : 1,
MS MAMTA R VYAS for Respondent(s) : 1,
MR SIRAJ GORI, AGP for Respondent(s) : 2 - 3.
None for Respondent(s) : 4,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 15/11/2005

ORAL JUDGMENT

In the present petition, the petitioner has challenged the order dated 21st March 1998 passed by the Collector, Surendrangar. By the impugned order, the petitioner who was an elected member of the Wadhwan

Municipality was declared to be disabled from continuing as a councillor and consequently the seat was declared to have become vacant. This order was passed in exercise of powers under sub-section (2) of section 38 of the Gujarat Municipalities Act, 1963. The petitioner has challenged this order before this Court in the present petition.

2. This Court granted stay against the removal on certain conditions. The petitioner, therefore, continued to hold the position of councillor of the Municipality. Learned AGP pointed out that by afflux of time, the term of elected body of the Municipality would have been long over by now. The removal order therefore would have no further effect. By virtue of the interim order passed by this Court and by virtue of afflux of time and the further development, namely, the term of the Municipality having been over, the present petition has become infructuous. It would, therefore, not be necessary to decide the legality of the impugned order. The petition is therefore disposed of as such. Rule is discharged. Interim relief vacated. No order as to costs.

(Akil Kureshi, J.)

(vjn)